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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,403	09-11-2009	Aldo M. Pitt	0046 2001-000	7297
21005	7540	06/02/2004	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			CINTINS, IVARS C	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 06-02-2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/637,403	Applicant(s) PITT ET AL.
Examiner Ivars C. Cintins	Art Unit 1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-41, 43-45, 50-61, 63-70 and 72-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-40, 64-70 and 75-82 is/are allowed.
- 6) ☒ Claim(s) 41, 43-45, 50-61, 63 and 72-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

The disclosure is objected to because the title does not accurately describe the invention being claimed, since only apparatus (i.e. device) claims are currently present in this application. Appropriate correction is required. Applicant is advised that an amendment deleting "and method for filtering fluid" from the title of the application would overcome this objection.

Applicant is advised that previously withdrawn claim 52 has now been rejoined with the other apparatus claims in this application.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 41, 43-45, 50-61, 63 and 72-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 41 now recites that "at least three membranes ... are at different angles with respect to a major plane of the plate" (lines 3-5), but the angling mechanism recited later in this claim only sets the angle of "one or more" of these membranes to a non-zero angle relative to this major plane (claim 41, lines 6-8). Accordingly, claim 41 is deemed to be misdescriptive and/or indefinite since it appears that the recited angling mechanism must set the angle of at least three membranes to a non-zero angle with respect to the major plane of the plate, in order to achieve the arrangement recited in lines 3-5 of this claim. Claims 43-45, 50-61, 63 and 72-74 depend from claim 41, and therefore suffer similarly. Claim 63 is further indefinite since it is not clear what structural limitation is present in this claim. Claim 73 is also further indefinite since it recites that the plurality of wells includes "at least two wells" but depends from a claim (i.e. claim 41) which now appears to require the presence of at least three wells (see lines 3-4), since one membrane is present in each well.


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Claims 38-40, 64-70 and 75-82 are allowed. Claims 41, 43-45, 50-61, 63 and 72-74 would also be allowed if rewritten or amended to overcome the above rejection under 35 U.S.C. § 112.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (571) 272-1156.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
May 31, 2004